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February 1, 2006

REPORT TO THE RULES, OPEN GOVERNMENT,
AND INTERGOVERNMENTAL RELATIONS COMMITTEE

REVISIONS TO COUNCIL POLICY 000-13

INTRODUCTION

At the request of the Committee on Government Efficiency and Openness [GE&O], on April 11, 2005, the City Attorney presented a report on compliance with San Diego City Charter section 42 regarding the selection of appointees to boards and commissions. After public testimony and committee discussion, GE&O requested that this Office provide non-discrimination language that could be added to Council Policy 000-13 and analyze procedures to provide additional information to the City Council and the public during the appointment process. GE&O specified eight areas for additional information and analysis. In a report dated June 22, 2005, this Office responded with analysis and proposed revisions to Council Policy 000-13 to address the GE&O requests. City Att'y Report No. 2005-17 (June 22, 2005).

In the course of drafting proposed revisions to Council Policy 000-13 in line with the recommendations in the June 22, 2005, report, it became apparent that additional revisions would be necessary in order to accommodate the changes created by the transition to the Mayor-Council form of government. *See*, San Diego Charter Art. XV. In addition, it became clear that further revisions to Council Policy 000-13 were necessary to correct typographical errors and grammatical inconsistencies, and to provide a much more user-friendly, comprehensive document. These suggested revisions are described below. The currently existing Council Policy 000-13, a proposed revised version of Council Policy 000-13, and a strike-out version of Council Policy 000-13 are attached as Attachments 1, 2, and 3, respectively.

DISCUSSION

I. Revisions to Council Policy 000-13 in accordance with the suggestions of GE&O, as described in City Attorney Report No. RC-2005-17.

In accordance with the suggestions of GE&O, proposed revisions to Council Policy 000-13 include: (1) the addition of non-discrimination language; (2) a clearly outlined "start to finish" appointment process; (3) an attendance policy to govern in the absence of a defined attendance policy in the governing documents of the individual board, commission, or advisory body; (4) and a requirement that memoranda appointing new members include

information regarding the community and district in which the nominee resides, as well as the nominee's occupation, and that such information shall be made available to the public. A thorough discussion of the legal issues and requirements surrounding each of these proposed revisions can be found in City Attorney Report No. RC-2005-17, dated June 22, 2005, available at: <http://www.sandiego.gov/citycouncil/committees/geo/pdf/draftrevisionspolicy000-13.pdf>.

II. Delineation of Mayoral and Council appointments and providing for involvement of each in the nomination process in accordance with the Mayor-Council form of Government.

The current San Diego City Charter includes the Mayor as a member of a nine person City Council. San Diego Charter §§ 12(a) and 24. Charter article XV, which establishes the Mayor-Council form of government [Mayor-Council] effective January 1, 2006, is effective for five years, unless earlier repealed, amended, or extended. San Diego Charter § 260. Under the new article XV, the Mayor is the Chief Executive Officer of the City. San Diego Charter § 265(b)(1). The Mayor no longer is a member of the City Council. San Diego Charter §§ 260(b); 265(b)(1), (4)-(5); 270; and 280(a). The City Council becomes an eight-member legislative body, chaired by a presiding officer. San Diego Charter § 270(a) and (d).

Council Policy 000-13 was created, and subsequently amended, during a period of time when the Mayor served as a member and chair of a nine-member City Council. Due to this fact, the appointment procedures laid out in Council Policy 000-13 assume that the Mayor is part of the Council. This assumption causes difficulties when trying to make sense of the Council Policy in light of the Mayor-Council changes. For example, in the case of those boards to which the Council has power of appointment, the current Council Policy requests that each Council member submit the names of nominees to fill vacancies to the Mayor and the Mayor, in turn, notify Council members of all potential nominees to fill vacancies. This procedure presupposes that the Mayor, as a member of the Council, will have his or her nominees included in the list of all potential nominees, which has been the intent of the Council Policy. When read in conjunction with Charter article XV, this procedure no longer effectuates that intent because the Mayor is no longer a member of the Council. Due to the removal of the Mayor from the City Council, specific provision must now be made in order to preserve the intent of the Mayor and Council that each shall have the ability to suggest nominees to fill vacancies on boards, commissions, and other advisory bodies.

The revised Council Policy 000-13 clearly separates the procedures for Mayoral appointment subject to Council confirmation and Council Appointment. This provides a framework for laying out every step of the process for each type of appointment and avoids any confusion about the roles that the Mayor and Council play in light of the Mayor-Council changes. Charter article XV retains for the Mayor his current "authority to appoint members of City boards, commissions, and committees, subject to City Council confirmation" as provided in

Charter sections 41 and 43.¹ The substantive changes to the section on Mayoral appointment subject to Council confirmation are: (1) the City Clerk shall notify the Mayor and Council of vacancies, rather than the Mayor shall notify Council, in order to bring the Council Policy in line with the current procedures the City follows in order to comply with California Government Code sections 54970 through 54974; (2) the Council President, rather than the Mayor, shall cause the matter of the Mayor's appointment to be placed on the docket in order to express the docketing procedure under Mayor-Council; and (3) addition of language from Charter section 43(c), which provides that if the Mayor does not make an appointment within 45 days after a vacancy occurs the Council shall make such appointments.

Charter section 43(c) provide one of the two ways the Council may make an appointment to a board, commission, or advisory body; the other being an express provision in the Charter, an ordinance, or other controlling law that gives to the Council power of appointment.² The substantive addition to the Council Policy 000-13 section on City Council appointments is that the Mayor and Council members may submit to the Council President, rather than the Mayor, the name of one nominee to fill each vacancy, which reflects the new role of the Council President as chair of the Council.

III. Conforming the duties of the Mayor and Council to the provisions Mayor-Council form of governance.

Additional changes are suggested in order to bring Council Policy 000-13 in line with the City Council meeting procedures under the Mayor-Council form of government. These changes primarily consist of changing "Mayor" to "Council President" whenever referring to the person in charge of docketing an item or the person in charge of chairing a City Council meeting. While the Mayor performed these functions pre-Mayor-Council, the Council President now performs these functions.

¹ Charter section 41 provides "[t]he Mayor shall appoint, subject to the confirmation of the Council, members of all commissions established pursuant to this section." The commissions established by section 41 include the Funds Commission, the Civil Service Commission, and the City Planning Commission. Charter section 43 authorizes the City Council to create advisory boards by ordinance, and expressly requires that "[a]ll members of such [ordinance-created advisory] boards shall be appointed by the Mayor with Council confirmation. . . ." It also authorizes the Mayor, Council, or City Manager to create temporary citizen advisory committees, with defined objectives, that dissolve upon completion of their objectives.

² Charter section 265(b)(13) provides the Mayor with the "[s]ole authority to appoint City representatives to boards, commissions, committees and governmental agencies, unless controlling law vests the power of appointment with the City Council or a City Official other than the Mayor."

IV. The Mayor's approval or veto process.

The last substantive addition to Council Policy 000-13 is the addition of a section referring to the Mayor's approval or veto process. Under Charter article XV, the Mayor has veto power over all Council resolutions appointing members to boards, commissions, and advisory bodies. The new Council Policy 000-13 section makes note of this veto power and references the applicable Charter procedures while confirming that nothing in the Council Policy should be interpreted or applied so as to create any power or duty in conflict with the approval or veto provisions of the Charter.

V. Correction of typographical errors and grammatical inconsistencies, as well as reformatting Council Policy 000-13.

After the addition of both the provisions suggested by GE&O and the changes necessitated by the Mayor-Council form of government, it became apparent that minor, non-substantive adjustments to Council Policy 000-13 would greatly aid in creating a user-friendly, comprehensive document. These changes eliminate typographical errors; help create a more readable document through precise and efficient word choice; eliminate grammatical inconsistencies; and create a better organizational structure within the policy.

Beyond the basic typographical and grammatical changes, the policy has been reformatted and reorganized to make the policy information easily accessible. Under the section labeled "POLICY," there are now four defined subsections: (1) Mayoral appointment with Council confirmation, (2) City Council appointment, (3) selection procedure for City Council appointments, and (4) general policies relating to appointments. Each of the first three subsections contains information related only to the subject of the subsection, while the fourth subsection contains information relevant to all appointments, regardless of the type of appointment. Information relevant to all appointments, which was once dispersed throughout the policy, is now easy to find because it is wholly contained within the subsection titled "general policies relating to appointments." This subsection now includes the following policy information: (1) non-discrimination policy and geographical diversity, (2) non-residents of the City, (3) term of service, (4) attendance requirement, (5) notice of vacancies, and (6) mayoral approval or veto process.

CONCLUSION

The GE&O suggested changes to Council Policy 000-13 that would formalize several informal procedures related to the appointment of citizens to boards, commissions, and advisory bodies, as well as the addition of new procedures that would ensure information relating to diversity of those advisory bodies is available during the appointment process. Several additional changes to Council Policy 000-13 became necessary in order to bring the policy in line with the changes brought about by the Mayor-Council form of government. Finally, after completing the necessary additions and revisions, it became apparent that non-substantive changes, such as

correcting typographical errors and grammatical inconsistencies and reformatting, would greatly add to the readability and user-friendly nature of the policy. The attached revisions to Council Policy 000-13 will incorporate all of the above.

Respectfully submitted,

MICHAEL J. AGUIRRE
City Attorney

MJA:SR:jb
Attachments
RC-2006-4

CITY OF SAN DIEGO, CALIFORNIA
COUNCIL POLICY

SUBJECT: PROCEDURE FOR MAYOR AND COUNCIL APPOINTMENTS
POLICY NO.: 000-13
EFFECTIVE DATE: December 3, 1984

PURPOSE:

It is the intention of the City Council to establish a uniform procedure for the appointment and confirmation of members of commissions, boards, committees, Authorities, districts, and councils pursuant to the provisions of this policy and California Government Code sections 54970 through 54974.

POLICY:

Mayoral Appointment with Council Confirmation

When a vacancy occurs or is expected to occur on a commission or advisory body to which the mayor has the power of appointment, the mayor shall notify each member of the Council by memorandum of such vacancy or expected vacancy and request nominees for the Mayor's consideration in making an appointment to fill the vacancy. Each Council member may, but is not required to, submit the name of one nominee, with attendant supporting information, to the Mayor within thirty days after receiving the notification of the vacancy.

Notification shall be deemed effective upon receipt of the mayor's memorandum, as indicated by the Council office time and date stamp. At the close of the thirty day response period, the mayor shall then cause to be placed on the next regularly scheduled Council meeting docket the matter of the appointee the Mayor has selected to fill the vacant position. The appointee shall, if a majority of Council members agree, appear before the Council. The Council shall confirm or deny the mayor's recommended appointee to the vacant position. If the confirmation of the Mayor's recommended appointee is denied, the Mayor shall cause to be placed on the next regularly scheduled Council meeting docket the matter of the Mayor's appointment to fill the vacant position.

When a vacancy occurs or is expected to occur on a commission or advisory body to which the City Council has the power of appointment, the City Clerk shall notify each member of the Council by memorandum of such vacancy or expected vacancy and request Council members to submit to the Mayor no later than thirty days after said notification the name of one nominee to fill the vacancy, together with any information in support of such nominee. Notification shall be deemed effective upon receipt of the City clerk's memorandum, as indicated by the Council office time and date stamp. The Council shall comply with the charge contained in Charter Section 42 to "take into consideration sex, race, and geographical area so that the membership of such commissions, boards, committees or panels shall reflect the entire community." The Mayor shall notify the City Council by memorandum of the nominees to fill the vacancy. No earlier than one week after the issuance of his memorandum, the Mayor shall cause to be placed on the

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next available Adoption Agenda of a regularly scheduled Council meeting the matter of discussion by the Council of the nominees. The Council shall consider all such nominees and select a nominee to fill the vacancy.

It is the intent of the Mayor and City Council that persons recommended as appointees to any City agency pursuant to this policy shall be residents of the City of San Diego. However, when a person with unique qualifications is available to serve, and who is resident of San Diego County, but not the City of San Diego, then the Mayor and City Council may make a conscious exception.

When nominating a person who is not a City resident, the Mayor or Councilmember shall notify all other Councilmembers of their nomination and provide a statement of his or her unique qualification. The notification shall be by memorandum and delivered within the nomination period.

The charter of The City of San Diego and some, but not all, other laws creating commissions, boards, committees, authorities, districts and councils provide limitations on the number of terms or years a member can serve. It is the intent of the Mayor and City Council that persons recommended as appointees to any City agency pursuant to this policy shall be governed by the maximum length of service provisions of the Charter so that appointees shall be limited to two (2) full consecutive terms or eight (8) consecutive years in office, whichever is longer; with one term or four (4) years, whichever is longer, intervening before they become eligible for reappointment.

It is the intention of this policy to take cognizance of and comply with the provisions of section 54972 through 54974 of the California Government Code.

Selection Procedure

The following procedure is for selection of nominees for vacancies on a board, commission or other advisory body to which the City Council has the power of appointment. As defined in Charter Section 15 a majority vote refers to the vote of a majority of the members elected to the Council. If multiple vacancies on the same board, commission or advisory body are to be filled, an election will be held to fill all vacancies at one time. The following procedure shall be used to fill single or multiple vacancies:

1. The Mayor calls on each candidate whose name appears on the docket as a nominee to make a presentation to the Council in support of his candidacy for appointment (maximum three (3) minutes presentation each).
2. The Mayor calls on member of the Council to ask brief questions of any of the candidates concerning either the presentation or matters contained in their application filed with the City.

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3. If the number of nominees equals the number of vacancies the nominees may be elected by general consent or acclamation to fill the position.
4. If the number of nominees is greater than the number of vacancies an election to fill all the vacancies shall be held at one time as follows:
 - a. The City Clerk provides ballots to the Council and each Council member votes for the candidates he/she feels to be most qualified for each vacancy and returns the ballots to the City Clerk. Each Council Member has one vote per vacancy.
 - b. The candidate(s) receiving the highest number of votes (minimum of five) shall be appointed to the vacancy(ies).
 - c. If there is one vacancy and no candidate receives a minimum of five (5) votes the Council may limit the slate to the two highest vote getters as finalists. The finalist receiving a majority shall be appointed to the vacancy.
 - d. In a multiple vacancy situation, if no candidates receive a minimum of five votes, balloting would continue until there were sufficient candidates receiving a majority to fill the vacancies. In a tie situation among the top vote getters those candidates would run off for the vacancies. If an insufficient number of candidates receive a majority of votes to fill all vacancies, a run off shall be held among the remaining vacancies.

RESPONSIBILITY:

It is the intent of the City Council that appointees promptly take the oath of office, are formally advised of any filing requirements pursuant to the conflict of interest code adopted by the agency to which they have been appointed, are provided with required reporting forms and information, and continuing notification and follow-up will be clearly provided by documented procedures; namely,

<u>Responsibility</u>	<u>Action</u>
Mayor (staff)	<ol style="list-style-type: none">1. Inform appointee of requirement to take oath of office at City Clerk's office.2. Inform appointee of requirement to file statement of economic interests reporting forms if disclosure is required for the position.
City Clerk (Deputy)	<ol style="list-style-type: none">3. Prepare oath card for appointee. If position requires filing of statement of economic interest, attach a notice to oath card that appointee shall be provided with forms and instructions and must sign an acknowledgment for receipt of materials.

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| Appointee | <ol style="list-style-type: none"> 4. Compile sets of forms and information for appointees whose positions require the filing of statements of economic interests. 5. Appear at City Clerk's office, take the oath of office and sign the oath card. 6. If the position requires economic interests disclosure, obtain the necessary reporting forms from the Clerk, together with instructional information regarding the reporting and sign acknowledgment receipt for the forms. 7. If required by the agency's conflict of interest code, complete and file the statement of economic interests in accordance with the code instructions. |
| City Clerk (Deputy) | <ol style="list-style-type: none"> 8. Compile and maintain a list of active memberships including status of oaths administered and economic interests disclosure filings, if required. Provide copies of the list to the Mayor; City Attorney and Board/Commission chairpersons. 9. Notify members of annual filing deadlines for statements of economic interests and provide required reporting forms. 10. Receive and file statement of economic interest forms filed by members and appointees. 11. Follow-up on filings and send written notice to delinquent filers advising of requirement to comply with code. (A copy of each notice to be sent to the City Attorney.) 12. Advise City Attorney of appointees' or members' failure to file following the sending of written notification. |

HISTORY:

Adopted by Resolution R-205453 04/27/1972
 Amended by Resolution R-207141 01/02/1973
 Amended by Resolution R-215960 05/12/1976
 Amended by Resolution R-217454 01/05/1977
 Amended by Resolution R-217592 01/26/1977
 Amended by Resolution R-217893 03/15/1977
 Amended by Resolution R-221971 10/06/1978
 Amended by Resolution R-250473 10/23/1979

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Amended by Resolution R-258342 04/25/1983
Amended by Resolution R-261492 09/10/1984
Amended by Resolution R-261821 10/29/1984
Amended by Resolution R-262084 12/03/1984

CITY OF SAN DIEGO, CALIFORNIA
COUNCIL POLICY

SUBJECT: PROCEDURE FOR MAYOR AND COUNCIL APPOINTMENTS
POLICY NO.: 000-13
EFFECTIVE DATE: December 3, 1984

PURPOSE:

It is the intent of the City Council to establish a uniform procedure for the appointment and confirmation of members of commissions, boards, committees, authorities, districts, and councils pursuant to the provisions of this policy and California Government Code sections 54970 through 54974. Nothing in this Policy shall be interpreted or applied so as to create any power or duty in conflict with the preemptive effect of the Charter of the City of San Diego, any federal or state law, or any duly enacted ordinance.

POLICY:

Mayoral Appointment with Council Confirmation

When a vacancy occurs or is expected to occur on a board, commission, or advisory body to which the Mayor has the power of appointment subject to Council confirmation, the City Clerk shall notify the Mayor and each member of the Council by memorandum of such vacancy or expected vacancy. Notification shall be deemed effective upon receipt of the City Clerk's memorandum, as indicated by the Mayor or Council office time and date stamp. Each Council member may, but is not required to, submit the name of one nominee for each vacancy, together with information in support of such nominee, to the Mayor within thirty days after receiving the notification of the vacancy.

At the request of the Mayor, the Council President shall cause to be placed on the next regularly scheduled Council meeting docket the matter of the Mayor's appointment to fill the vacant position. The appointee shall, if a majority of Council members agree, appear before the Council. The Council shall confirm or deny the Mayor's recommended appointee to the vacant position. If the confirmation of the Mayor's recommended appointee is denied, the Council President shall cause to be placed on the next regularly scheduled Council meeting docket the matter of the Mayor's appointment to fill the vacant position.

In accordance with San Diego City Charter section 43 (c), whenever under the provisions of the Charter or ordinance the Mayor is vested with authority to appoint the members of a board, commission, or advisory body and does not take such action within 45 days after the board, commission, or advisory body has been established or a vacancy occurs, then the Council shall make such appointments.

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City Council Appointment

When a vacancy occurs or is expected to occur on a board, commission, or advisory body to which the City Council has the sole power of appointment, the City Clerk shall notify the Mayor and each member of the Council by memorandum of such vacancy or expected vacancy and request the Mayor and Council members to submit to the Council President no later than thirty days after said notification the name of one nominee to fill each vacancy, together with any information in support of such nominee. Notification shall be deemed effective upon receipt of the City Clerk's memorandum, as indicated by the Mayor or Council office time and date stamp.

The Council President shall notify the Mayor and City Council by memorandum of the nominees to fill the vacancy. No earlier than one week after the issuance of said memorandum, the Council President shall cause to be placed on the next available Adoption Agenda of a regularly scheduled Council meeting the matter of discussion by the Council of the nominees. The Council shall consider all such nominees and select a nominee to fill the vacancy.

Selection Procedure for City Council Appointments

The following procedure is for selection of nominees to fill vacancies on a board, commission, or advisory body to which the City Council has the power of appointment. As defined in Charter section 15, a majority vote refers to the vote of a majority of the members elected to the Council. If multiple vacancies on the same board, commission, or advisory body are to be filled, an election will be held to fill all vacancies at one time. The following procedure shall be used to fill single or multiple vacancies:

1. The Council President calls on each candidate whose name appears on the docket as a nominee to make a presentation to the Council in support of his or her candidacy for appointment. The maximum presentation length is 3 minutes per candidate.
2. The Council President calls on members of the Council to ask brief questions of any of the candidates concerning either their presentations or matters contained in their application filed with the City.
3. If the number of nominees equals the number of vacancies the nominees may be elected by general consent or acclamation to fill the position.
4. If the number of nominees is greater than the number of vacancies, an election to fill all the vacancies shall be held at one time as follows:
 - a. The City Clerk provides ballots to the Council and each Council member votes for the candidate he or she feels to be most qualified for each vacancy and returns the ballot to the City Clerk. Each Council Member has one vote per vacancy.

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- b. The candidate or candidates receiving the highest number of votes, with a minimum of 5 votes, shall be appointed to the vacancy or vacancies.
- c. If there is one vacancy and no candidate receives a minimum of 5 votes the Council may limit the slate to the two highest vote getters as finalists. The finalist receiving a majority shall be appointed to the vacancy.
- d. In a multiple vacancy situation, if no candidate receives a minimum of five votes, balloting shall continue until there are sufficient candidates receiving a majority to fill the vacancies. In a tie situation among the top vote getters, a run off shall be held between those candidates who are tied. If an insufficient number of candidates receive a majority of votes to fill all vacancies, a run off shall be held to fill the remaining vacancies.

General Policies Relating to Appointments

1. Non-Discrimination Policy and Geographical Diversity.

The Council shall comply with the charge contained in Charter Section 42 to “take into consideration sex, race, and geographical area so that the membership of such commissions, boards, committees or panels shall reflect the entire community.” In that regard, the Mayor, or Council President, shall ensure that the information before the City Council includes: (1) the community and Council District where the nominee or appointee resides; (2) a list of the current members of such commission, board, committee, or panel, including the community and Council District where each member resides; and (3) the current or past occupation of the nominee or appointee, and each current member of such commission, board, committee, or panel. This information also shall be made available to the public.

Appointments to commissions, boards, committees or panels shall be made without discrimination on account of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation, unless any such factor is a requirement specified by the City Council as a necessary means to fulfill the purpose of such commission, board, committee, or panel.

2. Non-Residents of the City.

It is the intent of the Mayor and City Council that persons recommended as appointees to any City agency pursuant to this policy shall be residents of the City of San Diego. However, when a person with unique qualifications is available to serve who is a resident of San Diego County, but not the City of San Diego, the Mayor and City Council may make a conscious exception.

When nominating a person who is not a City resident, the nominator shall provide a statement of the nominee’s unique qualification to the Mayor and City Council. The notification shall be by memorandum and delivered within the nomination period.

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3. Term of Service.

The charter of The City of San Diego and some, but not all, other laws creating commissions, boards, committees, authorities, districts, and councils provide limitations on the number of terms or years a member can serve. Pursuant to this policy the maximum length of service of appointees shall be limited to 2 full consecutive terms or 8 consecutive years in office, whichever is longer; with 1 term or 4 years, whichever is longer, intervening before they become eligible for reappointment. Appointees whose terms of service have expired may continue to serve until their successor is duly appointed and qualified.

4. Attendance Requirement.

Unless otherwise specified by ordinance, each member of any board, commission, or advisory body shall be subject to the following attendance requirements. If any member misses three or more consecutive meetings, or one-third of all regularly scheduled meetings during the calendar year, that member's position shall be deemed immediately vacated, without further action. Absences may be excused by majority vote of the board or commission. It shall be the responsibility of the chairperson of the board, commission, or advisory body to report, or cause to be reported, absences triggering the immediate vacation of a position to the City Clerk.

5. Notice of Vacancies.

It is the intent of this policy to take cognizance of and comply with the provisions of section 54972 through 54974 of the California Government Code.

6. Mayoral Approval or Veto Process

For the period of time in which the Mayor-Council form of government remains in effect, in accordance with the Charter, the Mayor shall have veto power over all Council resolutions appointing members to boards, commissions, or advisory bodies. The approval or veto process shall be carried out in compliance with the procedures laid out in the Charter.

RESPONSIBILITY:

It is the intent of the City Council that appointees promptly take the oath of office; be formally advised of any filing requirements pursuant to the conflict of interest code adopted by the agency or board to which they have been appointed; be provided with required reporting forms and information; and receive continuing written notification of procedures they are to follow during their term of office. The responsibilities of those involved in the post-appointment procedures are as follows:

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<u>Responsible Party</u>	<u>Action</u>
Mayor (staff) for Mayoral appointments; Council President (staff) for Council appointments	<ol style="list-style-type: none"> 1. Inform appointee of requirement to take oath of office at City Clerk's Office. 2. Inform appointee of requirement to file statement of economic interests reporting forms if disclosure is required for the position.
City Clerk (Deputy)	<ol style="list-style-type: none"> 3. Prepare oath card for appointee. If position requires filing of statement of economic interest, attach a notice to oath card that appointee shall be provided with forms and instructions and must sign an acknowledgment for receipt of materials. 4. Compile sets of forms and information for appointees whose positions require the filing of statements of economic interests.
Appointee	<ol style="list-style-type: none"> 5. Appear at City Clerk's Office, take the oath of office, and sign the oath card. 6. If the position requires economic interests disclosure, obtain the necessary reporting forms from the Clerk, together with instructional information regarding the reporting and sign acknowledgment receipt for the forms. 7. If required by the agency's conflict of interest code, complete and file the statement of economic interests in accordance with the code instructions.
City Clerk (Deputy)	<ol style="list-style-type: none"> 8. Compile and maintain a list of active memberships including status of oaths administered and economic interests disclosure filings, if required. Provide copies of the list to the Mayor; Council President; City Attorney; and board, commission, or advisory body chairpersons. 9. Notify members of annual filing deadlines for statements of economic interests and provide required reporting forms. 10. Receive and file statement of economic interest forms filed by members and appointees.

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11. Follow-up on filings and send written notice to delinquent filers advising of requirement to comply with code. A copy of each notice shall also be sent to the City Attorney.
12. Advise City Attorney of appointees' or members' failure to file following the sending of written notification.

HISTORY:

Adopted by Resolution R-205453 04/27/1972
Amended by Resolution R-207141 01/02/1973
Amended by Resolution R-215960 05/12/1976
Amended by Resolution R-217454 01/05/1977
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Amended by Resolution R-250473 10/23/1979
Amended by Resolution R-258342 04/25/1983
Amended by Resolution R-261492 09/10/1984
Amended by Resolution R-261821 10/29/1984
Amended by Resolution R-262084 12/03/1984
Amended by Resolution R-_____

CITY OF SAN DIEGO, CALIFORNIA
COUNCIL POLICY

SUBJECT: PROCEDURE FOR MAYOR AND COUNCIL APPOINTMENTS
POLICY NO.: 000-13
EFFECTIVE DATE: December 3, 1984

PURPOSE:

It is the ~~intention~~intent of the City Council to establish a uniform procedure for the appointment and confirmation of members of commissions, boards, committees, ~~Authorities~~authorities, districts, and councils pursuant to the provisions of this policy and California Government Code sections 54970 through 54974. Nothing in this Policy shall be interpreted or applied so as to create any power or duty in conflict with the preemptive effect of the Charter of the City of San Diego, any federal or state law, or any duly enacted ordinance.

POLICY:Mayoral Appointment with Council Confirmation

When a vacancy occurs or is expected to occur on a board, commission, or advisory body to which the ~~mayor~~Mayor has the power of appointment subject to Council confirmation, the ~~mayor~~City Clerk shall notify the Mayor and each member of the Council by memorandum of such vacancy or expected vacancy ~~and request nominees for the Mayor's consideration in making an appointment to fill the vacancy.~~ Notification shall be deemed effective upon receipt of the City Clerk's memorandum, as indicated by the Mayor or Council office time and date stamp. Each Council member may, but is not required to, submit the name of one nominee, for each vacancy, together with attendant supporting information in support of such nominee, to the Mayor within thirty days after receiving the notification of the vacancy.

~~Notification shall be deemed effective upon receipt of the mayor's memorandum, as indicated by the Council office time and date stamp. At the close~~At the request of the ~~thirty day response period~~Mayor, the ~~mayor~~Council President shall ~~then cause to be placed on the next regularly scheduled Council meeting docket the matter of the appointee the Mayor has selected's~~ appointment to fill the vacant position. The appointee shall, if a majority of Council members agree, appear before the Council. The Council shall confirm or deny the ~~mayor~~Mayor's recommended appointee to the vacant position. If the confirmation of the Mayor's recommended appointee is denied, the ~~Mayor~~Council President shall cause to be placed on the next regularly scheduled Council meeting docket the matter of the Mayor's appointment to fill the vacant position.

In accordance with San Diego City Charter section 43 (c), whenever under the provisions of the Charter or ordinance the Mayor is vested with authority to appoint the members of a board, commission, or advisory body and does not take such action within 45 days after the board, commission, or advisory body has been established or a vacancy occurs, then the Council shall make such appointments.

CITY OF SAN DIEGO, CALIFORNIA COUNCIL POLICY

City Council Appointment

When a vacancy occurs or is expected to occur on a board, commission, or advisory body to which the City Council has the sole power of appointment, the City Clerk shall notify the Mayor and each member of the Council by memorandum of such vacancy or expected vacancy and request the Mayor and Council members to submit to the Mayor Council President no later than thirty days after said notification the name of one nominee to fill the each vacancy, together with any information in support of such nominee. Notification shall be deemed effective upon receipt of the City ~~clerk~~ Clerk's memorandum, as indicated by the Mayor or Council office time and date stamp. ~~The Council shall comply with the charge contained in Charter Section 42 to "take into consideration sex, race, and geographical area so that the membership of such commissions, boards, committees or panels shall reflect the entire community."~~ The Mayor

The Council President shall notify the Mayor and City Council by memorandum of the nominees to fill the vacancy. No earlier than one week after the issuance of ~~his said~~ memorandum, the Mayor Council President shall cause to be placed on the next available Adoption Agenda of a regularly scheduled Council meeting the matter of discussion by the Council of the nominees. The Council shall consider all such nominees and select a nominee to fill the vacancy.

~~It is the intent of the Mayor and City Council that persons recommended as appointees to any City agency pursuant to this policy shall be residents of the City of San Diego. However, when a person with unique qualifications is available to serve, and who is resident of San Diego County, but not the City of San Diego, then the Mayor and City Council may make a conscious exception.~~

~~When nominating a person who is not a City resident, the Mayor or Councilmember shall notify all other Councilmembers of their nomination and provide a statement of his or her unique qualification. The notification shall be by memorandum and delivered within the nomination period.~~

~~The charter of The City of San Diego and some, but not all, other laws creating commissions, boards, committees, authorities, districts and councils provide limitations on the number of terms or years a member can serve. It is the intent of the Mayor and City Council that persons recommended as appointees to any City agency pursuant to this policy shall be governed by the maximum length of service provisions of the Charter so that appointees shall be limited to two (2) full consecutive terms or eight (8) consecutive years in office, whichever is longer, with one term or four (4) years, whichever is longer, intervening before they become eligible for reappointment.~~

~~It is the intention of this policy to take cognizance of and comply with the provisions of section 54972 through 54974 of the California Government Code.~~

Selection Procedure for City Council Appointments

CITY OF SAN DIEGO, CALIFORNIA COUNCIL POLICY

The following procedure is for selection of nominees ~~for to fill~~ vacancies on a board, commission, or other advisory body to which the City Council has the power of appointment. As defined in Charter ~~Section 15~~section 15, a majority vote refers to the vote of a majority of the members elected to the Council. If multiple vacancies on the same board, commission, or advisory body are to be filled, an election will be held to fill all vacancies at one time. The following procedure shall be used to fill single or multiple vacancies:

1. The ~~Mayor~~Council President calls on each candidate whose name appears on the docket as a nominee to make a presentation to the Council in support of his or her candidacy for appointment ~~(. The maximum three (3) minutes presentation each)~~length is 3 minutes per candidate.
2. The ~~Mayor~~Council President calls on ~~member~~members of the Council to ask brief questions of any of the candidates concerning either ~~the presentation~~their presentations or matters contained in their application filed with the City.
3. If the number of nominees equals the number of vacancies the nominees may be elected by general consent or acclamation to fill the position.
4. If the number of nominees is greater than the number of vacancies, an election to fill all the vacancies shall be held at one time as follows:
 - a. The City Clerk provides ballots to the Council and each Council member votes for the ~~candidate~~candidate he/ or she feels to be most qualified for each vacancy and returns the ~~ballots~~ballot to the City Clerk. Each Council Member has one vote per vacancy.
 - b. The ~~candidate(s)~~or candidates receiving the highest number of votes ~~(, with a minimum of five)~~5 votes, shall be appointed to the vacancy~~(ies)~~or vacancies.
 - c. If there is one vacancy and no candidate receives a minimum of ~~five (5)~~ votes the Council may limit the slate to the two highest vote getters as finalists. The finalist receiving a majority shall be appointed to the vacancy.
 - ~~d.~~d. In a multiple vacancy situation, if no ~~candidate receives~~candidate receives a minimum of five votes, balloting ~~would~~shall continue until there ~~were~~are sufficient candidates receiving a majority to fill the vacancies. In a tie situation among the top vote getters, a run off shall be held between those candidates ~~would run off for the vacancies~~who are tied. If an insufficient number of candidates receive a majority of votes to fill all vacancies, a run off shall be held ~~among~~to fill the remaining vacancies.

General Policies Relating to Appointments

CITY OF SAN DIEGO, CALIFORNIA
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1. Non-Discrimination Policy and Geographical Diversity.

The Council shall comply with the charge contained in Charter Section 42 to "take into consideration sex, race, and geographical area so that the membership of such commissions, boards, committees or panels shall reflect the entire community." In that regard, the Mayor, or Council President, shall ensure that the information before the City Council includes: (1) the community and Council District where the nominee or appointee resides; (2) a list of the current members of such commission, board, committee, or panel, including the community and Council District where each member resides; and (3) the current or past occupation of the nominee or appointee, and each current member of such commission, board, committee, or panel. This information also shall be made available to the public.

Appointments to commissions, boards, committees or panels shall be made without discrimination on account of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation, unless any such factor is a requirement specified by the City Council as a necessary means to fulfill the purpose of such commission, board, committee, or panel.

2. Non-Residents of the City.

It is the intent of the Mayor and City Council that persons recommended as appointees to any City agency pursuant to this policy shall be residents of the City of San Diego. However, when a person with unique qualifications is available to serve who is a resident of San Diego County, but not the City of San Diego, the Mayor and City Council may make a conscious exception.

When nominating a person who is not a City resident, the nominator shall provide a statement of the nominee's unique qualification to the Mayor and City Council. The notification shall be by memorandum and delivered within the nomination period.

3. Term of Service.

The charter of The City of San Diego and some, but not all, other laws creating commissions, boards, committees, authorities, districts, and councils provide limitations on the number of terms or years a member can serve. Pursuant to this policy the maximum length of service of appointees shall be limited to 2 full consecutive terms or 8 consecutive years in office, whichever is longer; with 1 term or 4 years, whichever is longer, intervening before they become eligible for reappointment. Appointees whose terms of service have expired may continue to serve until their successor is duly appointed and qualified.

4. Attendance Requirement.

Unless otherwise specified by ordinance, each member of any board, commission, or advisory body shall be subject to the following attendance requirements. If any member misses three or

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more consecutive meetings, or one-third of all regularly scheduled meetings during the calendar year, that member's position shall be deemed immediately vacated, without further action. Absences may be excused by majority vote of the board or commission. It shall be the responsibility of the chairperson of the board, commission, or advisory body to report, or cause to be reported, absences triggering the immediate vacation of a position to the City Clerk.

5. Notice of Vacancies.

It is the intent of this policy to take cognizance of and comply with the provisions of section 54972 through 54974 of the California Government Code.

6. Mayoral Approval or Veto Process

For the period of time in which the Mayor-Council form of government remains in effect, in accordance with the Charter, the Mayor shall have veto power over all Council resolutions appointing members to boards, commissions, or advisory bodies. The approval or veto process shall be carried out in compliance with the procedures laid out in the Charter. Nothing in this Policy shall be interpreted or applied so as to create any power or duty in conflict with the approval or veto provisions of the Charter.

RESPONSIBILITY:

It is the intent of the City Council that appointees promptly take the oath of office, are; be formally advised of any filing requirements pursuant to the conflict of interest code adopted by the agency or board to which they have been appointed, are; be provided with required reporting forms and information,; and receive continuing written notification and follow-up will be clearly provided by documented procedures; namely, of procedures they are to follow during their term of office. The responsibilities of those involved in the post-appointment procedures are as follows:

Responsibility
Responsible Party

Action

Mayor (staff) for
Mayoral
appointments;
Council President
(staff) for Council
appointments

1. Inform appointee of requirement to take oath of office at City Clerk's officeOffice.
2. Inform appointee of requirement to file statement of economic interests reporting forms if disclosure is required for the position.

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| City Clerk (Deputy) | 3. Prepare oath card for appointee. If position requires filing of statement of economic interest, attach a notice to oath card that appointee shall be provided with forms and instructions and must sign an acknowledgment for receipt of materials. |
| | 4. Compile sets of forms and information for appointees whose positions require the filing of statements of economic interests. |
| Appointee | 5. Appear at City Clerk's office <u>Office</u> , take the oath of office, and sign the oath card. |
| | 6. If the position requires economic interests disclosure, obtain the necessary reporting forms from the Clerk, together with instructional information regarding the reporting and sign acknowledgment receipt for the forms. |
| | 7. If required by the agency's conflict of interest code, complete and file the statement of economic interests in accordance with the code instructions. |
| City Clerk (Deputy) | 8. Compile and maintain a list of active memberships including status of oaths administered and economic interests disclosure filings, if required. Provide copies of the list to the Mayor; <u>Council President</u> ; <u>City Attorney and Board/Commission</u> ; <u>and board, commission, or advisory body</u> chairpersons. |
| | 9. Notify members of annual filing deadlines for statements of economic interests and provide required reporting forms. |
| | 10. Receive and file statement of economic interest forms filed by members and appointees. |
| | 11. Follow-up on filings and send written notice to delinquent filers advising of requirement to comply with code. (A copy of each notice to <u>shall also</u> be sent to the City Attorney.) |
| | 12. Advise City Attorney of appointees' or members' failure to file following the sending of written notification. |

HISTORY:

Adopted by Resolution R-205453 04/27/1972
Amended by Resolution R-207141 01/02/1973

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STRIKEOUT POLICY

Amended by Resolution R-215960 05/12/1976
Amended by Resolution R-217454 01/05/1977
Amended by Resolution R-217592 01/26/1977
Amended by Resolution R-217893 03/15/1977
Amended by Resolution R-221971 10/06/1978
Amended by Resolution R-250473 10/23/1979
Amended by Resolution R-258342 04/25/1983
Amended by Resolution R-261492 09/10/1984
Amended by Resolution R-261821 10/29/1984
Amended by Resolution R-262084 12/03/1984
Amended by Resolution R-